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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/633,992

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Charles R. Kirk

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02/19/2010

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EXAMINER

WINTER, JOHN M

ART UNIT

PAPER NUMBER

3685

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/633,992	<b>Applicant(s)</b> KIRK, CHARLES R.	
	<b>Examiner</b> JOHN M. WINTER	<b>Art Unit</b> 3685	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4,8 and 9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4 8 and 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Acknowledgements***

1. The Applicants' amendment filed on November 12, 2009 is hereby acknowledged, Claims 1, 4, 8 and 9 remain pending.

### ***Response to Arguments***

2. Applicant's arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Black (US Patent Application 2002/0025062).

3. As per claims 1, 4, 8 and 9,  
Black ('062) discloses a computer readable medium including computer executable program instructions verifying a signature during a retail payment transaction. (paragraph 177).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6,8-9 are rejected under 35 U.S.C. 103(a) as being obvious over Black (US Patent Application 2002/0025062) in view of Chasko (US Patent 6,738,749).

5. As per claim 1,

Black ('062) discloses a computer readable medium including computer executable program instructions verifying a signature during a retail payment transaction, the program instructions comprising instructions for:

obtaining an electronic signature of a cardholder for an account number as a result of the cardholder writing a signature on an electronic signature capture device; (paragraphs

57,59 and 72)

determining whether there is a digital signature associated with the account number stored in a signature database; (Paragraphs 72, 80, 95)

responsive to determining that a digital signature associated with the account number is stored in a signature database automatically comparing the electronic signature

to the digital signature;(paragraphs 95 and 126)

Black ('062) does not explicitly disclose prompting a point of sale operator to manually verify the electronic signature responsive to either a determination that the signature database does not store a digital signature associated with the account number or a negative automatic comparison of the electronic signature to the digital signature; adding the electronic signature to the signature database, responsive to the point of sale operator verifying the electronic signature; and storing multiple signatures for the same cardholder account number within the database. Chasko discloses prompting a point of sale operator to manually verify the electronic signature responsive to either a determination that the signature database does not store a digital signature associated with the account number or a negative automatic comparison of the electronic signature to the digital signature; adding the electronic signature to the signature database, responsive to the point of sale operator verifying the electronic signature; and storing multiple signatures for the same cardholder account number within the database; (Figure 9, Column 10, lines 37-60 ). It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the Black ('062) method with the Chasko's . method in order to create a profile of a consumers spending habits linked to a specific payment account.

6. As per claim 4,

Black ('062) discloses the computer readable medium of claim 2 further comprising instructions for; completing the transaction responsive to the electronic Signature

matching the corresponding digital signature.(Paragraphs 150-151)

7. As per claim 8,

Black ('062) discloses the computer readable medium of claim 1 further comprising instructions for: cancelling the transaction responsive to the point of sale operator not verifying the electronic signature.(Figure 8)

8. As per claim 9,

Black ('062) discloses the computer readable medium of claim 1 further comprising instructions for: receiving authorization of the cardholder account number and an amount to be charged prior to obtaining the electronic signature of a cardholder. (Paragraph 117)

### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN M. WINTER whose telephone number is (571)272-6713. The examiner can normally be reached on M-F 8:30-6, 1st Fridays off. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Calvin Hewitt can be reached on (571) 272-6709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3685

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JMW

/Calvin L Hewitt II/  
Supervisory Patent Examiner, Art Unit 3685